Calendar No. 534

86TH CONGRESS, 1st Session | SENATE | REPORT No. 537

REMOVAL OF ACREAGE LIMITATIONS IN RECREATION ACT OF 1926

JULY 21, 1959.—Ordered to be printed

Mr. Moss, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 1436]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1436) to amend section 1 of the act of June 14, 1926, as amended by the act of June 4, 1954 (68 Stat. 173; 43 U.S.C. 869), having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF S. 1436

The Public and Recreational Purposes Act of 1926, as amended (68 Stat. 173; 43 U.S.C. 869), provides that Federal land under the jurisdiction of the Department of the Interior may be made available to certain designated applicants for public and recreational purposes. States and their instrumentalities are included within such designation. The law places a limit of 640 acres on conveyances that can be made to any grantee in any one calendar year.

The experience of the States that have attempted to develop park areas under the Recreation Act has proven the 640-acre limitation to be a most unrealistic one. Acreage needed for development as parks varies greatly among the States. Many areas proposed for development as parks by individual States very frequently are in excess of 640 acres. S. 1436 would permit the conveyance of public lands to the States for public park purposes without a limitation as to acreage.

In the administration of the Recreation Act, another problem is posed where agencies of a State make application for Federal lands. By interpretation of the act's language, the Department of the Interior has ruled that a State agency must have the authority to hold lands in its own name, otherwise any land it accepts under the 1926 act, as amended, must be charged against the sum of 640 acres which the State is permitted to accept within a calendar year. In effect, a State

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the agencies of which cannot hold land in their own names can take only 640 acres annually, while a State the agencies of which are able to hold title to land can acquire 640 acres annually for each of its qualifying agencies in addition to 640 acres annually for itself as a State. Thus, instead of the acreage which a State may receive being determined by the 1926 act, as amended, the amount that a State may receive depends, in reality, on State law. S. 1436 makes the act uniform in its practical application by applying the limitation against each of the programs of a State rather than by applying the limitation to a State and to each of its applicant instrumentalities.

Provisions of the present law which would not be changed by the enactment of this legislation require that specific and detailed plans must be submitted to the Secretary of the Interior by the States as applicants. Such proposed development plans must be consistent with park and recreational purposes. Under future conveyances, rights will continue to be reserved to the Government. No change in the repayment formula is effected by the reported bill. Conveyances are to be made—

> at a price to be fixed by the Secretary of the Interior through appraisal or otherwise, after taking into consideration the purpose for which the lands are to be used.

SIMILAR LEGISLATION

Prior to the introduction of the reported bill, the removal of the acreage limitations contained in the amended Recreation Act of 1926 was provided for in S. 1032, introduced by Senator Moss of Utah. At the request of officials of the State of Utah, S. 1032 also proposed that lands conveyed to the States under the act for park development purposes be conveyed without compensation. Although it favors the removal of the acreage limitation, the Department of the Interior objects to any amendment of the repayment formula. For reasons not known to the committee, the Department's report on S. 1032 was not received by the committee until nearly 2 months after the receipt of a favorable report on S. 1436. Rather than insisting on the consideration of S. 1032 with an amendment acceptable to the Department, Senator Moss, sponsor of the prior legislation, has supported, and herewith reports, S. 1436 which accomplishes his objective of making available to the States sufficient areas of Federal land needed to meet State needs for park development.

DEPARTMENTAL REPORTS

Set forth below are the reports received from the Department of the Interior on S. 1436 and S. 1032.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 28, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR MURRAY: This is in reply to your request for the views of this Department on S. 1436, a bill to amend section 1 of the act of June 14, 1926, as amended by the act of June 4, 1954 (68 Stat. 173; 43 U.S.C. 869).

We recommend that S. 1436 be enacted.

The act of June 4, 1954, amended the Recreation Act of June 14, 1926, in a large number of ways. Whereas the 1926 act had permitted the lease and disposal of public lands for public recreational purposes only, the 1954 act permitted their disposal for all public purposes. Then, too, while the 1926 act permitted the disposal of public lands to local governments, the 1954 act permitted the disposal of such lands to nonprofit organizations as well. The 1926 act contained no limitation as to the acreage which could be conveyed to any one applicant, but the 1954 act, probably because of its much broader scope, contained a clause prohibiting the conveyance of more than 640 acres to any one grantee under the act in any one calendar year. Inadvertently, the provision in the 1954 act establishing acreage limitations had led to unequal treatment for the various States and other governmental entities. The 1954 act refers to the disposition of public lands to a "State, Territory, county, municipality, or other State, Territorial, or Federal instrumentality or political subdivision." The word "instrumentality" has been construed by this Department in its usual sense, and, therefor, a State agency must have the authority to hold lands in its own name if it is to qualify as an "instrumentality" within the meaning of the 1954 act. If a State agency cannot qualify as an "instrumentality," any land which it accepts under the 1954 act must be charged against the sum of 640 acres which the State is permitted to accept within the year. This means that a State the agencies of which cannot qualify as instrumentalities can take only 640 acres annually, while a State the agencies of which are able to qualify as instrumentalities can secure 640 acres annually for each of those qualifying agencies in addition to 640 acres annually for itself as a State. Thus, instead of the acreage which each State may receive being determined by the 1954 act, the amount that a State may receive depends, in reality, to a very large extent upon the State law.

S. 1436 is intended to make the act uniform in its practical application by applying the limitation against each of the programs of a State rather than by applying the limitation to a State and to each of its "instrumentalities." For example, under the bill the highway, forestry, police, and other departments and agencies of a State, whether or not they qualify as "instrumentalities," would be permitted to secure up to 640 acres each. A similar case of unequal treatment may sometimes arise because projects which in some States are undertaken at the county or other subordinate level may in certain States be undertaken at the State level. The proposed amendment would help to rectify this matter.

S. 1436 would amend the 1954 act in another important respect. It would permit the conveyance of public lands to a State for public park purposes without any limitation as to acreage. The Secretary of the Interior's authority under the 1954 act is discretionary, and he would permit conveyances for such purposes only where the applicant could produce a satisfactory plan for the use and development of the land. The acreage needed for a State park may vary greatly in size. It is in the public interest for public lands which may be appropriately developed for park purposes to be developed in that manner. The proper development of a State park may be greatly handicapped if a State cannot acquire all the necessary acreage at one time or have some assurance that it can obtain the acreage in the future. We believe that the enactment of this provision is very desirable.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 4, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Senate Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in response to your request for this Bureau's views on S. 1436, a bill to amend section 1 of the act of June 14, 1926, as amended by the act of June 4, 1954 (68 Stat. 173; 43 U.S.C. 869).

S. 1436 would amend the acreage limitation of the Recreation Act so as to effect a more equitable application of its provisions to States involved. In addition, it would remove the 640-acre limitation in those cases where the transfer of land to a State is for public park purposes.

This Bureau would have no objection to the enactment of S. 1436.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 12, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Senate Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of February 16, 1959, requesting the comments of the Bureau of the Budget on S. 1032, a bill to amend the act of June 14, 1926, as amended, to provide that lands conveyed under such act for State park purposes shall not be subject to the 640-acre limitation contained in such act, and to provide that conveyances for such purposes shall be without consideration.

The report which the Secretary of the Interior is submitting on this bill points out certain undesirable features of S. 1032 and recommends favorable consideration of S. 1436, a bill of like objective.

This Bureau concurs in the views expressed in that report and accordingly recommends against enactment of S. 1032.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 15, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR MURRAY: This is in reply to your request for the views of this Department on S. 1032, a bill to amend the act of June 14, 1926, as amended, to provide that lands conveyed under such act for State park purposes shall not be subject to the 640-acre limitation contained in such act, and to provide that conveyances for such purposes shall be without consideration.

We recommend that S. 1032 not be enacted.

S. 1032 would amend the Recreation and Public Purposes Act of June 14, 1926, as amended by the act of June 4, 1954 (68 Stat. 173; 43 U.S.C. 869–869–3), in two respects. Section 1(b) of that act (43 U.S.C. 869(b)) limits the conveyance of land to any one grantee to 640 acres in any one calendar year. S. 1032 would remove this limitation with respect to conveyances of land to be used for State park purposes. Section 2(a) of the act (43 U.S.C. 869-1(a)) provides that conveyances of land to State and local governmental bodies for historic monument purposes shall be made without monetary consideration, while conveyances of other land are to be "made at a price to be fixed by the Secretary of the Interior through appraisal or otherwise, after taking into consideration the purpose for which the lands are to be used." S. 1032 would amend this provision to provide that conveyances of land for State park purposes would be made without monetary consideration in the same manner as conveyances for historic monument purposes.

With the first proposed amendment of the Recreation and Public Purposes Act, viz, the removal of the acreage limitation, we are in complete accord. S. 1436, a bill to amend section 1 of the act of June 14, 1926, as amended by the act of June 4, 1954 (68 Stat. 173; 43 U.S.C. 869), would amend the Recreation and Public Purposes Act by removing the acreage limitation on conveyances for State park purposes. In our report on that bill, dated April 28, 1959, we recommended that the bill be enacted. S. 1436 would make another change with respect to the acreage limitation which we also regard as desirable.

S. 1436 also differs from S. 1032 in that the former would not permit the conveyance of land for State park purposes without monetary compensation. We do not favor this amendment of the existing statute. Both section 2 of the Recreation and Public Purposes Act which is applicable to public domain lands administered by this Department

and section 13 of the Surplus Property Act of 1944 (58 Stat. 765, 770), as amended by the act of June 10, 1948 (62 Stat. 350; 50 U.S.C., app., sec. 1622(b)), which governs the disposal of surplus real property by the General Services Administration direct the conveyance of land for historic monuments without compensation. However, both require compensation for land conveyed for State park purposes. The General Services Administration requires compensation at 50 percent of fair market value; this Department requires 30 to 50 percent of the fair market value of the land plus 100 percent of the fair market value of any timber conveyed. When the longer period of restriction, i.e., 25 years as opposed to 20 years, imposed by the Recreation and Public Purposes Act is considered, the methods of determining charges are essentially consistent. We know of no justification at this time for altering the applicable provisions.

Accordingly, not being in agreement with the second amendment proposed by S. 1032 and favoring both of those proposed by S. 1436, we recommend that S. 1436 be enacted instead of S. 1032.

The Bureau of the Budget has advised that there is no objection to the submission of the proposed report to your committee.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 1436, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

43 U.S.C. 869

SEC. 869. (a) * * *

(b) No more than six hundred and forty acres may be conveyed to any one grantee in any one calendar year [.] *: Provided, That no more than six hundred and forty acres may be conveyed to a State in any one calendar year for the benefit of any one State program or of the program of any one State agency: Provided further, That there shall be no limitation as to the acreage which may be conveyed to a State or to a State park agency for public park purposes.*

(c) * * *

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